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SENATE BILL 839

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Leonard Lee Rawson

AN ACT

RELATING TO DISABILITIES; PROVIDING FOR CONSUMER DIRECTION OF
PERSONAL ASSISTANCE SERVICES IN CERTAIN PUBLICLY FUNDED
PROGRAMS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE. -- This act may be cited as the
"Consumer Direction Act".

Section 2. PURPOSE. -- The purpose of the Consumer
Direction Act is to ensure a consumer the right to direct his
personal assistance services if he so chooses by selecting an
attendant appropriate to his needs and to maximize personal
assistance service availability and satisfaction.

Section 3. DEFINITIONS. -- As used in the Consumer
Direction Act:

A. "attendant" means a person, including an

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1 allowable family member, who provides personal assistance
2 services;

3 B. "consumer" means a person receiving personal
4 assistance services through any personal assistance programs
5 offered by the state of New Mexico;

6 C. "department" means any department or agency of
7 the state offering personal assistance service to individuals;

8 D. "fiscal intermediary" means a person or entity
9 selected by agreement between the consumer and the department
10 under contract to the department to assist the consumer to
11 perform certain employment functions, including payroll
12 responsibilities for the attendant and filing necessary
13 eligibility information with the department;

14 E. "personal assistance services" means a
15 prescribed course of regular personal care, including hygiene,
16 mobility and daily living assistance that permits a person to
17 live in his home rather than an institution, including bathing,
18 dressing, grooming, eating, toileting, shopping, transporting,
19 cueing medication administration and communicating;

20 F. "plan" means a written and signed agreement
21 between a consumer or surrogate and the department for the
22 provision of personal assistance services; and

23 G. "surrogate" means a family member, legal
24 guardian or other person approved by the consumer and
25 identified in the personal assistance services plan to assist

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1 in direction of personal assistance services and choice of
2 attendant.

3 Section 4. CONSUMER DIRECTION PROGRAMS AUTHORIZED. --

4 Consistent with the federal Social Security Act and subject to
5 the appropriation and availability of federal and state funds,
6 each administering department or agency shall by rule provide a
7 program permitting a consumer or surrogate to direct personal
8 assistance services through the hiring, supervision and
9 training of an attendant or attendants paid through a fiscal
10 intermediary under contract with the department.

11 Section 5. DEPARTMENT DUTIES. --A department shall:

12 A. establish by rule the criteria and procedures
13 for developing and amending a personal assistance services plan
14 with a consumer;

15 B. develop criteria and procedures for selection of
16 a fiscal intermediary to contract with the department to
17 provide fiscal intermediary services to a consumer; and

18 C. establish rates for reimbursement of an
19 attendant providing personal assistance services to a consumer
20 and for the compensation of a fiscal intermediary.

21 Section 6. REPORT. --Annually by October 1, each

22 department shall deliver a report to the legislative finance
23 committee and the legislative health and human services
24 committee on services provided pursuant to the Consumer
25 Direction Act and a comparison of those services and services

1 provided by the department through other means and an
2 evaluation of the effectiveness and consumer satisfaction with
3 the respective means of service delivery.

4 Section 7. EFFECTIVE DATE. --The effective date of the
5 provisions of this act is July 1, 2003.

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